

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

WARREN ERIC ARMSTEAD,  
MICHAEL BLACKWELL,  
JAMES EDWARD GRATTON,  
ELIZABETH KAY GUTIERREZ,  
RUSTY MICHAEL HILL,  
GWENDOLYN ANN OPPENHEIM, and  
JAMES KENT WALTERS,

Defendants.

NO. 04-512P

ORDER  
CONTINUING TRIAL DATE

Based upon a review of the records and files herein, including the representations made at the August 18, 2005, status conference in this matter, this Court FINDS and RULES as follows:

The Indictment in this matter was returned by the Grand Jury on November 17, 2004, and the first defendants were first presented in this District on December 6, 2004. The last defendant to make a first appearance in this District was James Edward Gratton, who was arraigned on January 21, 2005.

Of the remaining defendants, all but Elizabeth Kay Gutierrez and Rusty Michael Hill have been detained. Moreover, of the defendants who are detained, all except Michael Blackwell and James Kent Walter are currently serving time on state charges

1 and, if released on the present holds, would return to state custody to complete their  
2 sentences.

3 Three of the seven remaining defendants, Gratton, Gwendolyn Ann Oppenheim,  
4 and Walter objected to a continuance in this case. However, as mentioned above, Gratton  
5 and Oppenheim are both serving state sentences and were brought before this Court from  
6 state custody pursuant to Writs of Habeas Corpus Ad Prosequendum.

7 Warren Eric Armstead, who has been identified by the government and grand jury  
8 as the leader of the organization, was appointed new counsel, Michael G. Martin, on July  
9 26, 2005. Mr. Martin received the voluminous discovery in this case in early August.

10 There are pretrial motions to suppress statements and evidence outstanding in this  
11 matter and thus the period of time since the filing of the motions in March to their  
12 disposition is excludable time under the Speedy Trial Act. See 18 U.S.C.  
13 § 3161(h)(1)(F). However, no motions to sever are currently before the Court and, at  
14 this time, the Court finds that the case is properly joined for trial.

15 The parties indicate that they are engaged in plea negotiations.

16 It therefore appearing to the Court that the Indictment in this case does allege a  
17 complex and widespread scheme to defraud financial institutions; and it further appearing  
18 that it would be unreasonable to expect adequate preparation for pretrial proceedings and  
19 for the trial itself without a continuance, even with diligent and good faith efforts by  
20 counsel to prepare for trial, because of the recent appointment of new counsel for Warren  
21 Eric Armstead, the lead defendant, the number and complexity of the charges, the  
22 voluminous discovery involved, and the numerous witnesses; and it further appearing that  
23 the ends of justice served by granting the requested continuance outweigh the interest of  
24 the public and the defendants in a speedy trial,

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28 IT IS ORDERED that the trial date be continued from September 6, 2005, until

1 November 14, 2005.

2 IT IS FURTHER ORDERED that the period of delay from the date of this Order,  
3 until November 14, 2005, is excludable time pursuant to 18 U.S.C. § 3161(h)(8)(A), for  
4 the purpose of computing the time limitations imposed by the Speedy Trial Act.

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6 DATED this 19<sup>th</sup> day of August, 2005.

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11 /Marsha J. Pechman  
12 MARSHA J. PECHMAN  
13 UNITED STATES DISTRICT JUDGE

14  
15 Presented by:

16 /s/ Tessa M. Gorman  
17 TESSA M. GORMAN  
18 Assistant United States Attorney  
19 WSBA# 35908  
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CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

s/ Stephanie J. Orona  
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